No. 54788-1-II (Pierce County No. 18-2-07410-5)

WASHINGTON STATE COURT OF APPEALS DIVISION II

IN RE WILLIAM CURRY Jr.,
Po Se Appellant,

v.

WILLIAM VAN HOOK, Dr. BRIAN JUDD, PhD. P.C., AND THE WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES, D.S.H.S. AND SUB - AGENCY, SPECIAL COMMITMENT CENTER et al.,

Respondent,

APPELLANT'S AMENDED REPLY TO RESPONDENT'S BRIEF

Pro se
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I. REPLY TO STATE'S INTRODUCTION

A. Appellant is an alleged sexually violent predator (SVP) that does not have a history of sexually abusing children this is another example of the dishonesty of the Attorney Generals Office and misuse in a Court proceeding. With the assistance of counsel, Appellant did stipulate in 2011 that the content of the underlying SVP civil commitment petition provided probable cause because my Attorney at the time told me that know one wins a probable cause hearing. Appellant was required to give the psychologist another bit at the apple from the poisons tree through the Department of Social and health Services Sub Division Special Commitment Center to hold him on a false diagnosis given for punitive detention.

B. Appellant filed the Petition for Writ of Habeas Corpus that is the subject of his appeal because his Constitutional rights are being suppressed by being forced to go

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to trial by use of false evidence so my only course of action is to pursue a Writ of Habeas Corpus. Appellant advised the Court that the Attorney Generals Office represents all Respondent's named the Court Clerk made it seem like Appellant added a new Respondent so the case was continued until the next hearing. If the Attorney General finds that the acts were within the employee's scope of official duties or in good faith purported to be within the officials duties, then the Attorney General must provide that representation. Appellant filed three notice of service two by certified mail receipt which the Court would not acknowledge as proper service until on the third time Appellant paid a Process Services to serve the Attorney General.

C. Appellant did not file a reply to the Attorney Generals substantive response to the petition because he new would not get a fair court proceeding the judge of that court made that clear throw his actions. Respondent's are quick to say what court rules Appellant did not follow but when it comes to the Respondent's late notice of appearance to default judgment any excuse will do.

D. Appellant does not just speculate at collusion its right there in the courts face Appellant ask the Judge to disqualify him self form his Writ of Habeas Corpus Proceeding because he sits over Appellant's 71.09 Proceeding this request was denied by the Court, the all of a sudden the Attorney General files a late appearance you don't have to be a rocket scientist to know that the appearance of fairness doctrine has been violated.

E. Appellant has studied the limited case law about the diagnosis and has not found one that address the false fraudulent mental disorder given to Appellant out of the blue just because you have used that diagnosis in the pass does not make it good the State is depending on the Appellant to lay down and just accept a diagnosis that just came out of thin air. Appellant cannot let the State justify saying the diagnosis can be litigated or can be thoroughly tested at Appellant's pending SVP proceeding

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because the State and the Judge have denied the only test for scientific evidence to held a Fry Hearing.

F. Appellant's filing for his Writ of Habeas Corpus is timely and ripe when the confinement comes with out proof beyond a reasonable doubt, for this reason Writ of Habeas Corpus should be heard on the merit's and a evidence hearing on Appellant currently suffering from a current mental disorder, State flatly rejected the scientific literature.

II. REPLY TO COUNTERSTATEMENT OF THE ISSUES

A. The Court Should Ignore the State's Complaints Regarding the Form of Appellant's Appeal. The State has complained that Appellant's Appeal makes "know citations to cases with no explanation of their holdings or potential relevance to his claims". Reply to **A.** Issues page 3.

B. The Court Should Ignore the State's Complaints Regarding Appellant' due process violations and the appearance of fairness doctrine, and improper ex parte communication, Appellant's factual support is just as good as the Attorney Generals mysteries staff member letting him know about the default hearing and to respond since the Judge ask was there any one from the Attorney Generals Office in the courtroom and know one responded. Reply to **B.** issues page 3.

C. The Court Should Ignore the State's Complaints Regarding if the trial court properly denied Appellant's default judgment even if other jurisdictions is not a available remedy for habeas petitions and where the record in this case shows there was continued stubbornness on the courts part to accept the way service was process, when the process would be good for any other inmate. Reply to C. issues page 3.

D. The Court Should Ignore the State's Complaints Regarding Appellant's so called remedy of fully contesting Appellant's status as an alleged SVP during Appellant's still pending civil commitment trial. Appellant should not be force to go to a trial when the evidence is false and fraudulent mental health diagnosis to begin with how

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is that a fair trial. Reply to **D.** issues page 3, 4.

E. The Court Should Ignore the State's Complaints Regarding Appellant's Writ of Habeas Corpus as untimely, the court did not properly dismiss Appellant's petition it was the remedy to the constitutional violations at the hands of state actors acting under the color of law. Reply to **D.** issues page 3, 4.

III. REPLY TO STATEMENT OF THE FACTS

A. THE ALLEGED SEXUALLY VIOLENT PREDATOR CIVIL COMMITMENT PROCEEDING AGAINST APPELLANT

1. In January 2009, the State of Washington filed a petition to civilly commit Appellant as a sexually violent predator (SVP). I n support of its petition, the State submitted a fraudulent probable cause certification. Again the State try's to input something in to the record that is not there Appellant does not have any crimes against children Appellant's Indecent Liberties charges happened when Appellant was 12 years old and the victim was 13 years old, and Appellant had another Indecent Liberties when he was 14 years old and the victim was 13 years old this is just another example of the State trying to push there agenda at any means necessary to booster the State's power over Appellant. Reply to **A.** issues page 4.

2. The Court Should Ignore the State's Statement Regarding the submission of a resent psychological evaluation of Appellant conducted by Dr. Brian Judd, PhD., Dr. Judd diagnosed Appellant with Paraphilia Not Otherwise Specified (NOS) (Nonconsent) Cocaine abuse, Cannabis Abuse, Alcohol Abuse and Antisocial Personality disorder in 2006, with know history of mental illness any were in Appellant's prison files or medical files but after four hours with Dr. Judd Appellant has a mental abnormality after fourteen and a half years in prison without any history of sexually acting out. A made up disorder that has been used and abused so much that the Authors of the Diagnostic and Statistical Manual of Mental

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Disorders,(DSM – TR-1V). Heller v. Shaw Indus. Inc, 167 F.3d 146, 153 (3rd. Cir.1999) Expert and Methodology Used. Reply **A.** to issues page 5.

3. The Court Should Ignore the State's statement Regarding the Diagnosis because of the Abuse and misuse of the Paraphilia Not Otherwise Specified (NOS) (Nonconsent) Diagnosis in the (DSM –TR-1V) Fourth Edition and Editions before that The Authors the Diagnostic and Statistical Manual of Mental Disorders, (DSM-5) Fifth Edition. In Vitek v. Jones, 455 U.S. 480, 492-493 (1980), the Supreme Court held that, absent a determination in a civil commit- ment proceeding of current mental illness and dangerousness, even an incarcerated prisoner serving a criminal sentence could not be transferred to a mental institution. There, the Supreme Court noted that even a convicted felon serving his criminal sentence has a liberty interest, which is not extinguished by his criminal confinement, in not being transferred to a mental institution and thus classified as mentally ill. (445 U.S. at 493.) The Court held that "[t]he loss of liberty produced by an involuntary commitment is more than a loss of freedom from confinement." (Id. At 492.) That case, like Addington v. Texas, 441 U.S. 418 (1979), did not address pretrial detention. Reply to **A.** issues page 5.

4. The Court Should Ignore the State's statement Regarding any diagnosis given to Appellant none of them have been present for at least 6 months if ever and causes marked distress or impairment in social, occupation or other important areas of functioning. Dr. Judd and the State wont to use Diagnostic and Statistical Manual of Mental Disorders in State's favor without following it completely as to follow the Highlights of Changes from the DSM –IV to DSM-5 as well as the Cautionary Statement of the Diagnostic and Statistical Manual of Mental Disorders, Appellant can not be diagnosis with a mental disorder for civil commitment just out of the blue to continue punishment. Appellant decided to stand up for his Constitutional rights not to be civil committed through use of a false / fraudulent mental health diagnosis

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given 14 and half years later and to go for a evaluation and in about 4 hours without any medical history of mental or any sexual acting out in prison illness, and test used for insurance to predict Curry's Civil Commitment Evaluation page 33. **Mandatory Language of the DSM-TR-IV, DSM-V** Based upon Mr. Curry's presentation when seen on 9/25/06 there did not appear to be a basis for assigning an Axis I DSM-IV-TR4 affective disorder diagnosis. The DSM-IV-TR defines Paraphilia as, "recurrent, intense sexually arousing, fantasies, sexual urges, or behaviors gene- rally involving 1) non-human objects, 2) the: suffering or humiliation of oneself or one's partner, or 3) children or other non-:consenting persons **that occur over a period of at least 6 months." which makes diagnoses given Fourteen Years later a Violation of due process, and equal protection under the Constitution.** Reply to **A.** issues page 5. **5.** The Court Should Ignore the State's statement Regarding any diagnosis given to Appellant Appellant's claims are covered by the fourth amendment and must be analyzed under the reasonableness standard governing searches and seizures. The eighth Circuit Court of Appeals has observed that: The fourteenth amendment guarantees "substantive due process which prevents the government from engaging in conduct that shocks the conscience or interferes with rights implicit in the concept of ordered liberty". Weiler v. Purkett, 137 F.3 1047, 1051(8th Cir. 1998) (en banc). To that end, the fourteenth amendment prohibits "conduct that is so outrageous that it shock the conscience or otherwise offends Judicial notions of fairness or is offensive to human dignity". Id.(quoting Weimer v. Amen, 870 F.2d1400, 1405 (8th Cir. 1989); Moran v. Clarke, 296 F.3d 638, 643 (8th Cir. 2002). Dr. Judd his particular diagnostic categories does not apply to the Respondent because Dr. Judd has employed, **"Shifting Time Referents"** by using predominately **Old Information** that does not show that Appellant every had a mental condition or history of in his D.O.C. Master-file to make a diagnosis of his alleged **currentcondition.** Whatever it's original cause; it must be a **CURRENT**

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manifestation of a behavior, psychological or biological dysfunction in the individual. In the case of In re Detention of Samuelson, 189 I11. 2d 548, 727 N.E. 2d 228 (I11.2000), Chief Justice Harrison of the Illinois Supreme Court wrote in his concurring opinion of the Court on January 21, 2000 that: "A defendant **cannot** be involuntarily committed **based on past conduct.** Involuntary Confinement is permissible only where the defendant **presently** suffers from a mental disorder, and the disorder creates a substantial probability that he will engage in acts of sexual violence in the future." Dr. Judd's report, previous testimony and any subsequent testimony should be excluded and ruled as unreliable, inaccurate, misleading and unsubstantiated because Dr. Judd has not presented and demonstrated a prima facie showing, **beyond a reasonable doubt** that the Respondent has a **Current** mental disorder that warrants commitment under the Act. WHEREFORE, the Petition for Commitment under RCW, 71.09 should be dismissed with prejudice. Reply to **A.** issues page 5.

6. The Court Should Ignore the State's statement Regarding any Response from the State about probable cause because the evidence used was fraudulent and non-existent and made up on the spot to hold Appellant for thirteen more years. After probable cause was found then Appellant's attorney submitted to Appellant to sign at the special commitment center (SCC). Appellant should not have to give the prosecuting agency and the evaluator so many bit's at the apple with a fraudulent mental disorder, and misinformation used to begin with. The probable cause determination in this case was found using standard held to be unconstitutional by the U.S. Supreme Court. Previously there existed a great deal of ambiguity, resulting in controversy, surrounding the methodology used by the DSHS in making SVP evaluations. Applying the Crane decision rationale and requirements will now force the DMH to completely change their methods, particularly since Crane has now added additional constitutional requirements that simply were not part of the DMH

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evaluations performed in the present case. Such as: any showing of a current serious inability to control behavior; or a current mental abnormality. The Crane standards must now be applied retroactively. "We acknowledge the existence of the new rule of law requiring a change of statutory interpretation to be applied retroactively." Rosebud Souix Tribe v. State of South Dakota, (8th Cir.1990) 900 F.2d 1164,1172, citing U.S. v. Estate of Donnley, (1970) 397 U.S. 286, 294-295. "This rule explains that [t]he effect of the subsequent decisions is not to make a new law but only to hold that the law always meant what the court now says it meant." Fleming v. Fleming, (1924) 264 U.S. 29, 31- 32. Therefore, the critics of the DSHS methodology, who have long claimed that the Foucha decision also applied to SVP proceedings, were always correct. Because these constitutional standards were not met at the Probable Cause Hearing, and also because the Trial Court applied the wrong standards when it found probable cause, that finding is no longer reliable. Now the Crane has clarified the requirements, the Prosecutors burden is significantly increased leaving two of the three Crane constitutional requirements unmet. The Ninth Circuit Federal Appeals Court has held that indictments are insufficient if they fail to state a material element of the offense. U.S. v. ORS, Inc,(9th Cir.1993) 997 F.2d 628, 630-631. Some guidance may also be found from other state's SVP probable cause hearing jurisprudence: (Probable cause hearing is summary proceeding at which state must establish plausible account on **each required element,** based on all reason- able inferences that can be drawn from the facts. Analogy drawn to preliminary hearing in felony. Expert opinion based solely on inadmissible hearsay does not constitute probable cause. State v. John T. Watson, (1999) 227 Wis.2d 167, 595 N.W.2d 403.) (At the preliminary examination, the court deter- mines whether probable cause exists at the time of the examination rather than at the time of the arrest. In the present case, everything presented by the Attorney Generals office DSHS experts was based on events that occurred prior to

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Appellant's alleged being looked at for civil commitment in 2009, and fourteen and a half years later with know history of sexually act out our any mental health issues during prison sentence or the thirteen years at the special commitment center. The Court in Henry v. Estelle, (9th Cir.1993) 993 F.2d 1423, held that a state court's admission of evidence of unchanged crime (a sex offense) was highly prejudicial, and violated the petitioner's due process rights warranting habeas relief. The normal procedure to challenge a probable cause finding is a writ of habeas corpus. See In re Kirk, (1999) 88 Cal.Rptr.2d 648, 76 Cal.App.4th 1066; People v. Talhelm, (2000) 102 Cal.Rptr. 150. Therefore, Petitioner now brings this petition for a Writ of Habeas Corpus. Reply to A. Counterstatement of Facts the issues page 6.

7. The Court Should Ignore the State's statement Regarding any Response from the State about a Frye hearing regarding the Paraphilia Not Otherwise Specified (Nonconsent) diagnosis the diagnosis is not commonly accepted in the relevant scientific community. Appellant should not be subject to the same fraudulent evidence used to get him here, and a Addendum to Dr. Brian Judd's report that said noting has changed even through the science had at that time. Dr. Judd's fraudulent contradictory psychiatric report, based on old information, does constitute new factor for purposes of using pass sentence as a bases for civil commitment. A contradictory report merely confirms that mental health professionals will due anything for money even giving a fraudulent diagnosis to hold petitioner. The State has failed to differentiate the non-psychiatric evidence at the time of Judd's report. Reply to **A.** issues page 7.

8. The Court Should Ignore the State's statement Regarding any Response about Appellant not cooperating. The refusal of Appellant to cooperate with the another evaluation by Dr. Judd perhaps frustrated the State's objectives. In any event, petitioner wanted the trial court to be aware of his being given a mental disorder just for commitment. The statute expressly provides for post commitment evaluation, but

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it makes no mention of evaluations during pretrial discovery. CR 35 is inconsistent with the special proceedings set out in chapter 71.09 RCW. Reply to **A.** issues page 7.

10. The Court Should Ignore the State's statement Regarding any Response about currently suffering form any mental condition to hold Appellant who does not have mental disorder is inherently punitive and meets the "stigma-plus" test. *See* Doe v. Otte, 248 F.3d 832 (9th Cir. 2001), and Paul v. Davis, 424 U.S. 693, 96 S.Ct. 1155, 47 L.Ed.2d 405 (1976). Appellant's argument that the State knowingly presented false testimony of Dr. Judd. Giglio v. United States, 405 U.S. 150 (1972): Under Giglio, a prosecutor has a duty to correct testimony he or she knows to be false. See 405 U.S. at 153-54. In order to establish a Giglio violation, a defendant must show that (1) the testimony was false; (2) the prosecutor knew of the false testimony; and (3) the testimony was material. Reply to **A.** issues page 7.

11. The Court Should Ignore the State's statement Regarding any Response about currently suffering form any mental condition to hold Appellant who does not have mental disorder and who's confinement is inherently punitive People v. Klavana, 11 Cal. App.4th at 1712 (1993) No medically recognized mental disorder or pathological personality traits. Reply to **A.** issues page 7.

B. Petition for Writ of Habeas Corpus and Motion for Default

1. The Court Should Ignore the State's statement Regarding any Response from the State about Appellant's Writ of Habeas Corpus Appellant filed the Habeas Corpus RCW Chapter 7.36 in Pierce County Superior Court the case was origin- ally assigned to a Judge Cumbersome Some kind of away Appellant's 71.09 proceeding Judge is hearing Appellant's Writ of Habeas Corpus which should have been considered a conflict of interest the next thing Appellant's 71.09 attorney is setting up court dates for Appellant's habeas corpus proceedings. Appellant named all the Respondents in his original Writ of Habeas Corpus Petition as the Respondent has in

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there response as I will hear William Van Hook, Dr. Brian Judd, and the Special Commitment Center, sub agency of Department of Social and Health Services. Reply to **B.** issues page 8.

2. It is clear that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody. Preiser v. Rodriguez, 411 U.S. 475, 484, 93 S.Ct. 1827, 36 L,Ed,2d 439 (1973). The Supreme Court has traced the history of the writ: Over the years, the writ of habeas corpus evolved as a remedy available to writ: effect discharge from any confinement contrary to the Constitution or fundamental law. Id. at 485, 93 S.Ct. 1827, and has described the writ as "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action," Harris v. Nelson, 394 U.S. 286, 290-91, 89 S.Ct. 1082, 22 L.Ed.2d 281 (1969),emphasizing "there is no higher duty than to maintain habeas corpus unimpaired." Bowen v. Johnston, 306 U.S. 19, 26, 59 S.Ct. 442, 83 L.Ed. 455 (1939). Zadvydas v. Davis, 533 U.S. 678, 121 S.Ct. 2491, 2493, 150 L.Ed.2d 653 (2001) (" A person's liberty interest is not diminished by their lack of a legal right to live at large, for the choice at issue here is between imprisonment and supervision under release conditions that may not be violated and their liberty interest is strong enough to raise a serious constitutional problem with **indefinite detention.**"). Reply to **B.** issues page 8.

3. The Court Should Ignore the State's statement Regarding any Response from the State that Appellant failed to provide proof that he served petition on any of the named respondents this argument fails as Appellant stated to the Court that the Attorney General represents all the respondents as they are all state actors acting for the state of Washington under the color of law. Reply to **B.** issues page 9.

4. The Court Should Ignore the State's statement Regarding any Response from the State about Appellant Methods of Service. Appellant through the U.S. mail sent a

Rule 4 (d) (4) (j).Waiver of Service of Summons with a Affidavit of mailing, Certificate of Service. Affidavit of Mailing and Certificate of Service Certified mail, Bob Ferguson Attorney General of Washington 7141 Cleanwater DR. SW P.O. Box 40124 Olympia, WA 98504-0124 and to The Honorable Philip K. Sorensen Superior Court of the State of Washington in and for Pierce County Department 19 Tacoma, Washington 98402-3200. Appellant's service was proper at all attempts to serve Respondents as a person confined the Court has been trying to not here Appellant's Writ of Habeas Corpus since The Honorable Philip K. Sorensen Superior Court of the State of Washington for Pierce County some how was able to be assigned to Appellant's Writ of Habeas Corpus at every court hearing the process has not been fair. Reply to **B.** issues page 9.

5. The Court Should Ignore the State's statement Regarding any Response from the State about Appellant notice of appearance. Appellant finally had to pay a processor to make service on Respondents. Even after Appellant unequivocally served the petition on the Attorney General the state counsel for all state actors named the Attorney General did not enter a notice of appearance by the due date the court is only a stickler for the rules when it comes to the Appellant Reply to **B.** issues page 10.

8. The Court Should Ignore the State's statement Regarding any Response from the State about the dismissal of Appellant's Default Judgment because the Honorable Philip K. Sorensen and the Attorney Generals Office would have the Court of Appeals and Appellant believe the rules only applied to the Appellant and not to all parties involved. Haupt v. Dillard, 17 F3d 285 (9th Cir. 1994), see also Liljerberg v. Heath Serv. Corp, 486 US 847, 100 LEd2d 855, 108 SCt 2194 (1988) Right to a fair trial is basic requirement of due process and includes right of unbiased judge. Reply to **B, C** issues page 12.

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9. The Court Should Ignore the State's statement Regarding any Response from the State about the dismissal of Appellant's Writ of Habeas Corpus petition. Appellant's Writ of Habeas Corpus Petition should have been heard on the merits of the Habeas Petition due to the Constitutional Violations being prolonged. Matthews v. Eldridge, 424 U.S. 319, 333, 47 Led2d 18, 96 SCt 892 (1976) Arnstrong v. Monzo, 380 U.S. 545, 552, 14 Led2d 62, 85 SCt 1187 (1965) (1) Due process requires as general matter opportunity to be heard at meaningful time and in a meaningful manner. (2) Citizens must be afforded due process before deprivation of life, liberty or property. Reply to **B, C** issues page 12.

10. The Court Should Ignore the State's statement Regarding any Response from the State about Appellant's Write of Habeas Corpus being untimely State instituted these issues and litigated without any significant changes until Appellant decided to stand up for his Constitutional rights not to be civil committed through use of a false / fraudulent mental health diagnosis given 14 and half years later and to go for a evaluation and in about 4 hours without any medical history of mental or any sexual acting out in prison illness, and test used for insurance to predict Curry's Civil Commitment. Appellant has read there has been know changes to SVP's making a challenge to presently or currently suffering from a mental illness. For the Appellant the only way to challenge the diagnosis given is a Writ of Habeas Corpus. Reply to **B, C.** issues page 12.

IV. ARGUMENT

A. Reply to States Argument that Appellant's Brief Does not comply with the rules of Appellate Procedure and the court should decline Review of Appellant's Claims

1. The Court Should Ignore the State's statement Regarding any Response from the State about Appellant's Brief regarding the Form of Appellant's brief. The State has complained that Appellant's brief makes "know citations to cases with no

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explanation of their holdings or potential relevance to his claims" and that Appellant did not comply with Rules of Appellate Procedure. The form that Appellant used in filing his Appellant brief was obtained from the Special Commitment Center law library. The form was essentially like that in the Forms, Rules of Appellate Procedure. Reply to **A.** issues page 13.

2. The Court Should Ignore the State's statement Regarding any Response from the State about Appellant's claims without meaningful analysis The form Appellant followed specifically requested that formal legal arguments not be made. Similarly, case law citations were to be included if possible. There was no requirement that Appellant was to include lengthy explanations of the case holdings. Reply to **A.** issues page 13.

3. The Court Should Ignore the State's statement Regarding any Response from the State about Appellant to comply with Rules of Appellate Procedure Challenge to state and federal constitutional protections, this is a very complex legal analysis that is probably far beyond Appellant's ability, not only because of his lack of legal education and training, but also because he lacks access to the necessary legal research volumes that would allow him to make an adequate analysis. This is the reason Appellant motioned the court for appointment of legal counsel. Appellant will, however, attempt to address the factors in this reply, to the best of his ability, and with the extremely limited research sources that he has available to him at the SCC. Reply to **A.** issues page 14.

4. The Court Should Ignore the State's statement Regarding any Response from the State about Appellant's judicial considerations the state cannot claim that it was without notice that Appellant intended to pursue his state constitutional claims. Appellant has now addressed the factors in his reply brief and the core issues are not new; only the application of the State constitution to the facts as they apply under RCW 71.09 is new. There is no valid reason why the court should not first consider

Appellant's state constitutional claims. See State v. Mendez, 137 Wn.2d 208, 216-17 (1999). Reply to **A.** issues page 13, 14.

5. Surely, the State cannot be asking that the Court refuse to address the clams raised in Appellant's Writ of habeas corpus petition because Appellant followed the requirements of the form provided to him by the Special Commitment Center law library, a form that largely follows the requirements of the Form, Rules of Appellate Procedure. The Court should ignore the state's complaints regarding the form of Appellant's Writ of Habeas Corpus Petition. Reply to **A.** issues page 14.

B. Reply to States Argument that Nothing in the Record Supports Claims of Conspiracy or Ex Parte Communication

1. The Court Should Ignore the State's Argument Regarding any Response from the State about Appellant's claims of Conspiracy, and Ex Parte Communication an Attorney from the agency was present in the courtroom the Honorable Philip K. Sorensen ask if there were any Attorneys from the Attorney generals Office and there was know response now the Attorney Generals Office wants the Appellant and the Court of Appeals to believe that out of the blue that know one from the Honorable Philip K. Sorensen court contacted the Attorney Generals Office. Assistant Attorney General filed a late notice of appearance on March 11, 2020. Appellant's allegations do have merit and is supported by the record as replied to in Reply to **B.** issues page 15, 16.

2. Judicial Bias, the Appellant claims that the Superior Court prejudged the case against him, violating his due process rights to a neutral decisionmaker. Parties to litigation are "entitled to due process, the essence of which is a fair trial before a tribunal free from bias or prejudice. "Gardiner v. A.H. Robins Co., 747 F.2d 1180, 1191 (8th Cir.1984) (Citing In re Murchison, 349 U.S. 133, 136-37, 75 S.Ct. 623, 99 L.Ed. 942 (1955)). "Ordinarily, when unfair judicial procedures result in a denial of due process, this court could simply find error, reverse and remand the matter.

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"Reserve Mining Co. v. Lord, 529 F.2d 181,185 (8th Cir. 1976). In those cases where the court has found a biased or prejudiced district judge resulted in a due process violation, the evidence of bias was overwhelming. For instance, in Gardiner the district judge "stated that he believed the truth of plaintiffs' allegations, adding that he had become an advocate for plaintiffs and that he was, in fact, prejudiced." 747 F.2d at 1192.Based on allegations of deceit and bias and consequences on the part of a "decision - maker that necessarily imply the validity of the dismissal of appellant's writ of habeas corpus procedure, Judge delayed any decision on those issues. He was personally responsible for the decision to bypass Appellant's constitutional and civil rights that were being challenge. Reply to **B.** issues page 15, 16.

C. Reply to Argument that there was no Violation of Due Process or the Appearance of Fairness Doctrine

1. The Court Should Ignore the State's Argument Regarding any Response from the State about Appellant Claims of Violation of Due Process and the Appearance of Fairness Doctrine Appellant as the Honorable Philip K. Sorensen in open court to recuse him self because the Judge sits over the Appellant's 71.09 commitment Proceedings he refused to recuse his self and continued with hearing Appellant's Writ of Habeas Corpus Proceeding this is not a new allegation this is fact which the record should have reflected . Reply to **C.** issues page 16.

2. The Court Should Ignore the State's Argument Regarding any Response from the State about Appellant Claims of Appearance of Fairness Doctrine pertaining to the failure of a state judge to recuse himself because his impartiality might reasonably be questioned. Appellant filed a petition for a writ of habeas corpus in the Superior Court, Appellant ask this Court to conclude that there existed an appearance of bias on the part of the judge. Judge under the appearance of fairness claim that the judge had erroneously failed to recuse himself sua sponte. Appellant ask this court analyzed the issue first under the Washington Judges' Code of Judicial Conduct to

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find out if situation was one of those enumerated in the Code that would mandate recusal. Due Process is denied by circumstances that create the likelihood or the appearance of bias. Peters v. Kiff, 407 U.S. 493, 501, 92 S.Ct. 2163, 33 L.Ed. 2d 83 (1972). This prohibition against ex parte communications includes contacting neutral third parties about a pending case. Code of Judicial Conduct 3 (c)(1)(1995). Reply to **C.** issues page 17, 18, 19, 20, 21, 22.

3. An analysis of the extent of a constitutional deprivation is not an exact science capable of quantification, rather it is qualitative in nature. Thompson v. Washington,162 U.S. App. D.C. 39, 497 F.2d 626, 636 (D.C Cir. 1973). However , we have previously held that " if state officers conspire in such away as to defeat or prejudice a litigant's rights in state court, that would amount to a denial of equal protection of the laws by persons acting under color of state law". Dinwiddie v. Brown, 230 F.2d 465, 469 (5th Cir.), cert. Denied, 351 U.S. 971, 76 S.Ct. 1041, 100 L.Ed. 1490 (1956). Conduct by state officers which results in delay in the prosecution of an action in state court may cause such prejudice. As we stated in Rheuark v. Shaw, 628 F.2d 297 (5th Cir. 1980), cert denied, 450 U.S.931, 101 S.Ct. 1392, 67 L.Ed.2d 365 1981). Delay haunts the administration of justice. It postpones the rectification of wrong and the vindication of the unjustly accused. It crowds the dockets of the increasing the cost for all litigants, pressuring judges to take shortcuts, interfering with the prompt and deliberate disposition of those causes in which all parties are diligent and prepared for trial, and overhanging the entire process with the pall of disorganization and insolubility. But even these are not the worst of what delay does. The most erratic gear in the justice machinery is at the place of fact finding, and possibilities for error multiply rapidly as time elapses between the original fact and its judicial determination. Reply to **C.** issues page 17, 18, 19, 20, 21, 22.

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4. Supreme Court has said repeatedly that "the writ of habeas corpus indisputably holds an honored position in our jurisprudence" and remains "a bulwark against convictions that violate 'fundamental fairness.'" Engle v. Isaac, 456 U.S. 107, 126 (1982). See, e.g., Slack, 529 U.S. at 483; Smith v. Bennett, 365 U.S. 708, 712 (1961). Freedom from bodily restraint and punishment is within liberty interest 712 (1961), in personal security that is protected from state deprivation without due process of law. U.S.C.A. Const. Amend. 14. The liberty preserved from deprivation without due process included the right "generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men." Meyer v. Nebraska, 262 U.S. 390, 43 S.Ct. 626 L.Ed. 1042 (1923); See Dent v. West Virginia, 129 U.S. 114, 123-124, 9 S.Ct. 231, 233-234, 32 L.Ed. 623 (1889). Among the historic liberties so protected was a right to be free from and to obtain judicial relief, for unjustified intrusions on personal security. The reason that the Constitution requires a State to provide" due process of law" when it punishes an individual for misconduct is to protect the individual from erroneous or mistaken punishment that the State would not have inflicted had it found the facts in a more reliable way. Mathews v. Eldridge, 424 U.S. 319, 335, 344, 96 S.Ct. 893, 903, 907, 47 L.Ed.2d 18 (1976). In determining what process is due in a particular circumstance, the Supreme Court, in Mathews v. Eldridge, 424 U.S. 319, 334-335 (1976), set forth three factors that a court must weigh: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute safeguards; and (3) the government's interest in the procedure used, including the function involved and the fiscal and administrative burdens that additional or substitute procedural requirements would entail.(Id. At 334- 335 citing Goldberg v. Kelly, 397 U.S. 254,263-271 (1970). Reply to **C.** issues page 17, 18, 19, 20, 21, 22.

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V. Conclusion

No evidence that Appellant currently suffers or has ever suffered from a mental condition.

The document contains 5,998 words, excluding the parts of the document exempted from the word count by RAP18.17.

Respectfully Submitted Signed and dated this 22 day of June 2022.

Appellant William Curry Jr

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CERTIFICATE OF SERVICE

Case Name: William Curry v. William Van Hook, Dr. Brian Judd Ph.d. P.C., the Washington State Department of Social Services D.S.H.S and Sub Agency, Special Commitment Center et al.

Case No: Case No. **54788-1-II**

I, WILLIAM CURRY Jr., CERTIFY THAT ON THE 22 DAY OF JUNE 2022, I CAUSED A TRUE AND CORRECT COPY OF **APPELLANT FILED A AMENDED REPLY BRIEF TO STATES REPONSE, AND CERTIFICATE OF COMPLIANCE INDICATING HOW MANY WORDS ARE CONTAINED IN THE DOCUMENT RAP 18.17 AND CORRECTION TO 14 POINT FONT RAP 18.17 AND A DECLARATION OF SERVICE BY MAIL.** TO BE SERVED ON THE PARTY BELOW BY DEPOSITING SAID DOCUMENTS IN THE U.S. MAIL.

[X] The Court of Appeals
Division Two
909 A. Street STE 200
Tacoma, Washington 98402-3694

SIGNED THIS 22 DAY OF JUNE, 2022

William Curry Jr

WASHINGTON STATE COURT OF APPEALS

DIVISION TWO

WILLIAM CURRY Jr.

APPELLANT,

Case No. **#: 54788-1-II**

DECLARATION OF SERVICE BY MAIL

WILLIAM VAN HOOK, Dr. BRIAN JUDD, PhD. P.C., AND THE WASHINTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES, D.S.H.S. AND SUB-AGENCY, SPECIAL COMMITMENT CENTER et al.

RESPONDENT.

DECLARATION OF SERVICE BY MAIL

I, William Curry Jr, declare as follows under penalty of perjury the law of the State of Washington that the following is true and correct: That I am eighteen (18) years of age, and that on the 22 day of June 2022, I deposited in the mail of the United States Postal Service a true and correct copy of a Amended Reply Brief, and a Certificate of Service Motion for addressed as follows:

THE COURT OF APPEAL

DIVISION II

900 A STREET STE 200

TACOMA, WASHINGTON 98402 - 3694

WILLIAM CURRY Jr
P.O. BOX 88600
Steilacoom, WA 98388

I declare under penalty of perjury under the laws of State of Washington that the foregoing is true and correct.

Executed on DATED this 22 day of June, 2022, at Steilacoom Washington

Respectfully Submitted, By William Curry Jr

PRO SE WILLIAM CURRY Jr.
P.O. BOX 88600
Steilacoom, WA 98388